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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,825	03/11/2004	James Mason Boswell	MS1-1912US	8389
22801	7590	03/04/2009		
LEE & HAYES, PLLC 601 W. RIVERSIDE AVENUE SUITE 1400 SPOKANE, WA 99201			EXAMINER GOODCHILD, WILLIAM J	
			ART UNIT 2445	PAPER NUMBER
			MAIL DATE 03/04/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/799,825

**Applicant(s)**

BOSWELL ET AL.

**Examiner**

WILLIAM J. GOODCHILD

**Art Unit**

2445

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/12/2009 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21-24 and 26-28, 30-31, and 34-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hosack et al., (US Patent No. 5,418,528), (hereinafter Hosack), and further in view of DeLuca, (US Patent No. 5,075,684).

Regarding claims 21, 28 and 34, Hosack discloses receiving a new message from a client device [Hosack, figure 3, item 305 and column 4, lines 26-34];

identifying a title attribute of the new message that identifies an application running on the client device that sent the new message [Hosack, figure 3, column 4, lines 29-34 (source) and column 5, lines 38-42];

determining whether a queue for a targeted recipient of the new message has more than a message queue threshold number of messages [Hosack, column 4, lines 40-48 and figure 3, item 325];

deleting one of the messages from the queue when the queue includes more than the message queue threshold number of messages [Hosack, figure 3 and column 4, lines 40-52]; wherein deleting one of the messages from the queue comprises:

deleting a message in the queue that has the title attribute of the new message regardless of the sender name of the new message [Hosack, figure 3, column 4, lines 4—52] and when an attribute title count exceeds an attribute title threshold [Hosack, column 5, lines 12-19]; and

adding the new message to the queue [Hosack, figure 4, item 380].

Hosack does not specifically disclose identifying a sender name of the new message that identifies a user logged onto the client device;  
when a sender name count exceeds a sender name threshold.

However, DeLuca, in the same field of endeavor discloses providing individualization of source names for each selective call receiver [DeLuca, column 4, lines 19-20] deleting a

message when a sender name count exceeds the allotted storage slots [DeLuca, column 4, lines 5-20 and column 3, lines 10-19].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a sender name in order to further define which messages should be kept and which messages should be deleted in a prioritized order.

Regarding claim 22, Hosack-DeLuca further discloses deleting the oldest message in the queue regardless of the sender name and the attribute title when the sender name count does not exceed the sender name threshold and when the attribute title count does not exceed the attribute title threshold [Hosack, column 4, lines 44-52 and figures 3-4].

Regarding claim 23, Hosack-DeLuca further discloses wherein the deleting one of the messages from the queue further comprises deleting a message in the queue that has the sender name of the new message when the sender name count exceeds the sender name threshold and when the attribute title count does not exceed the attribute title threshold [DeLuca, column 4, lines 15-20 and column 3, lines 10-19].

Regarding claim 24, Hosack-DeLuca further discloses wherein the deleting one of the messages from the queue further comprises deleting an oldest message in the queue that has the attribute title of the new message when the attribute title count exceeds the attribute title threshold [wherein the deleting one of the messages from the queue

further comprises deleting an oldest message in the queue that has the attribute title of the new message when the attribute title count exceeds the attribute title threshold [Hosack, column 40, lines 40-52 and column 5, lines 12-19].

Regarding claim 26, Hosack-DeLuca further discloses the deleting a message in the queue that has the sender name of the new message is to delete the oldest message in the queue that has the sender name of the new message [DeLuca, column 2, line 67 – column 3, line 1 and column 3, lines 10-19 and column 4, lines 19-20].

Regarding claim 27, Hosack-DeLuca further discloses wherein the sender name includes at least one of a system administrator, a publisher of an application, and an application itself [Hosack, column 40, lines 40-52 and column 5, lines 12-19].

Regarding claim 30, Hosack-DeLuca further discloses wherein the deleting a message from the queue based on both the first sender attribute count [Hosack, figure 3, column 4, lines 29-34 (source) and column 5, lines 38-42] and the second sender attribute count [DeLuca, column 4, lines 5-20 and column 3, lines 10-19] comprises deleting a message having the first sender attribute of the new message when the first sender attribute count exceeds a first sender attribute threshold [Hosack, figures 3-4 and column 4, line 45 – column 5, line 19]; and deleting a message having the second sender attribute of the new message when the first sender attribute count does not exceed the first sender attribute threshold and when

the second sender attribute count exceeds a second sender attribute threshold [Hosack, figures 3-4 and column 4, line 45 – column 5, line 19].

Regarding claim 31, Hosack-DeLuca further discloses the deleting a message having the first sender attribute [DeLuca, column 4, lines 5-20 and column 3, lines 10-19] of the new message is to delete the oldest message in the queue having the first sender attribute [DeLuca, column 4, lines 5-20 and column 3, lines 10-19] of the new message [Hosack, figures 3-4 and column 4, line 45 – column 5, line 19]; and  
the deleting a message having the second sender attribute of the new message is to delete the oldest message in the queue having the second sender attribute of the new message [Hosack, figures 3-4 and column 4, line 45 – column 5, line 19].

Regarding claim 35, Hosack-DeLuca further discloses wherein the queue is associated with a targeted recipient of the newly received message [Hosack, column 3, lines 61-65].

Regarding claim 36, Hosack-DeLuca further discloses delete the oldest message in the queue when the queue includes more than a message queue threshold number of messages [Hosack, figures 3-4 and column 4, line 45 – column 5, line 19] and when the number of messages in the queue that have the first sender attribute [DeLuca, column 4, lines 5-20 and column 3, lines 10-19] of the newly received message does not

exceed a first sender attribute threshold [Hosack, figures 3-4 and column 4, line 45 – column 5, line 19]; and

delete the oldest message in the queue having the first sender attribute [DeLuca, column 4, lines 5-20 and column 3, lines 10-19] of the newly received message when the queue includes more than the message queue threshold number of messages and when the number of messages in the queue that have the first sender attribute of the newly received message exceeds the first sender attribute threshold [Hosack, figures 3-4 and column 4, line 45 – column 5, line 19].

Regarding claim 37, Hosack-DeLuca further discloses wherein the first sender attribute [DeLuca, column 4, lines 5-20 and column 3, lines 10-19] of the newly received message identifies an application running on a client device that sent the newly received message [Hosack, column 40, lines 40-52 and column 5, lines 12-19]

Regarding claim 38, Hosack-DeLuca further discloses wherein the second sender attribute of the newly received message identifies a user logged onto a client device when the message was sent [DeLuca, figure 3, column 2, line 2 – column 3, line 24].

Regarding claim 39, Hosack-DeLuca further discloses delete the oldest message in the queue having the second sender attribute of the newly received message when the queue includes more than the message queue threshold number of messages, the number of messages in the queue that have the first sender attribute of the newly



received message does not exceed the first sender attribute threshold, and the number of message in the queue that have the second sender attribute of the newly received message exceeds the second sender attribute threshold [Hosack, figures 3-4 and column 4, line 45 – column 5, line 19].

Regarding claim 40, Hosack-DeLuca further discloses wherein the second sender attribute includes at least one of a system administrator, a publisher of an application, and an application itself [Hosack, column 40, lines 40-52 and column 5, lines 12-19].

4. Claims 25, 29, 32 and 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hosack-DeLuca as applied to claim 21 above, and further in view of Tanaka et al., (US Publication No. 2003/0228909), (hereinafter Tanaka).

Regarding claim 25, Hosack-DeLuca does not specifically disclose wherein the title attribute of the new message identifies a game running on the client device that sent the new message.

However, Tanaka, in the same field of endeavor discloses the game server apparatus generates a predetermined event according to the current progress of the game, transmitting a message to each video game apparatus from the game server apparatus [Tanaka, paragraph 60, lines 11-17].

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include receiving messages from a game apparatus in order to distinguish between messages from a human and those generated by an application.

Regarding claim 29, Hosack-DeLuca-Tanaka further discloses wherein the targeted recipient is an address identifying a user, the address being independent from any particular client device [Tanaka, paragraph 37].

Regarding claim 32, Hosack-DeLuca-Tanaka further discloses wherein the second sender attribute comprising a user of a game console [Tanaka, abstract].

Regarding claim 33, Hosack-DeLuca-Tanaka further discloses wherein the first sender attribute comprising a game title [Tanaka, abstract].

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 21-40 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Examiner's Note: Examiner has cited particular paragraphs / columns and line numbers in the reference(s) applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the cited passages as taught by the prior art or relied upon by the examiner.

Should applicant amend the claims of the claimed invention, it is respectfully requested that applicant clearly indicate the portion(s) of applicant's specification that support the amended claim language for ascertaining the metes and bounds of applicant's claimed invention

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM J. GOODCHILD whose telephone number is (571)270-1589. The examiner can normally be reached on Monday - Friday / 8:00 AM - 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrice Winder/  
Primary Examiner, Art Unit 2445

WJG  
02/25/2009